

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1) VIDEO GAMING TECHNOLOGIES, INC.,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:17-cv-00454-GKF-JFJ
)	
1) CASTLE HILL STUDIOS LLC)	
(d/b/a CASTLE HILL GAMING);)	
2) CASTLE HILL HOLDING LLC)	
(d/b/a CASTLE HILL GAMING); and)	
3) IRONWORKS DEVELOPMENT, LLC)	
(d/b/a CASTLE HILL GAMING))	
)	
Defendants.)	

JOINT REQUEST FOR CLARIFICATION OF SCHEDULING ORDER

Plaintiff (“VGT”) and Defendants (“CHG”) jointly submit this request for clarification of two aspects of the Fifth Amended Scheduling Order (Dkt. 312) (“Scheduling Order”).

First, the Scheduling Order appears to differ from the Court’s (and the parties’) preferences regarding proposed findings of fact and conclusions of law. The Scheduling Order sets September 9, 2019, as the deadline for these proposed findings and conclusions. *See* Dkt. 312. But during the November 13, 2018 status/scheduling hearing, the Court stated that the parties should submit proposed findings and conclusions after trial. *See* Dkt. 249 at 18–19. The parties respectfully request confirmation that they should not make these submissions until after trial.

Second, the parties seek guidance on trial briefs, which are due September 9, 2019. *See* Dkt. 312.

- **VGT’s Position:** VGT wishes to submit a trial brief as scheduled and as discussed at the November 13, 2018 hearing. *See* Dkt. 249 at 19. Although certain issues to be

tried have been briefed during motions practice, VGT has not had an opportunity to brief all the issues, let alone in a form that VGT believes will assist the Court in most efficiently preparing for the upcoming trial. In contrast to Castle Hill, which used the summary judgment and motion in limine briefing and hearing to argue most aspects of the case, VGT took a more targeted approach that focused on only a handful of issues. As a result, VGT has not had the opportunity to state its full theory of the case, including the basis for the damages it seeks. VGT submits that trial briefs will be useful guides for the Court and proposes that they be limited to 30 pages. If Castle Hill believes that additional pre-trial briefing would not be helpful, it of course is not required to submit a trial brief.

- **CHG's Position:** Castle Hill believes pretrial briefs would largely be repetitive of the summary judgment briefing, and requests that the Court dispense with this requirement or, alternatively, provide the parties with any specific issues the Court wishes the parties to brief and limit briefs to 20 pages. The Court already possesses hundreds of pages of briefs on VGT's claims, Castle Hill's defenses, the key evidence, and lay and expert testimony anticipated at trial. VGT has also provided the Court PowerPoint presentations summarizing its claims. VGT's assertion that it has "not had the opportunity to state its full theory of the case" is troubling. VGT's "theory of the case" cannot change from its theories set forth in the Amended Complaint and expert reports, which the Court already has or will have reviewed and issued opinions on in the context of the parties' summary judgment and *Daubert* motions. Castle Hill respectfully submits that further briefing will be redundant and waste further resources, and requests that the Court dispense with the briefing in its

entirety, but if the Court believes additional briefing would be helpful, Castle Hill requests that the Court identify specific areas of interest, and limit the briefs to 20 pages.

Accordingly, the parties respectfully request that the Court clarify the Scheduling Order regarding the proposed findings of fact and conclusions of law and trial briefs.

August 2, 2019

Respectfully submitted,

/s/ Gary M. Rubman

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CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2019, I filed the foregoing via ECF, which caused a true and correct copy of the foregoing to be delivered to the following counsel for Defendants:

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